

Minutes

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
Louisiana Agricultural Commodities Commission
Veterans' Memorial Auditorium
5825 Florida Blvd.
Baton Rouge, LA 70806
March 26, 2009
9:30 a.m.

I. Call to Order

Mr. Robert Hanks called the meeting to order at 9:30 a.m.

II. Roll Call and Declaration of Quorum

Present

Absent

Mr. Kenny Self
Mr. Keith Hensgens
Mr. Robert Hanks
Mr. Donald Zaunbrecher
Mr. Ryan Ellington
Mr. Filmore Bordelon
Commissioner Mike Strain

Mr. James Hoppe
Mr. E. Lee Carter
Mr. Kevin Adams

There were seven (7) members present at the meeting.

Mrs. Ashley Dupree, Director of the Louisiana Agricultural Commodities Commission, reported that Mr. James Hoppe, Chairman of the Commission, had resigned from this position due to time constraints and his business responsibilities. Mrs. Ashley Dupree stated that Mr. Hoppe will send a resignation letter expressing his desire to resign. Mr. Robert Hanks, Vice-Chairman, will take over this position until a new chairperson is elected.

Staff Members Present

Director of the Louisiana Agricultural Commodities Commission, Ashley Dupree
Assistant Commissioner, Benjy Rayburn
Executive Counsel, Tabitha Gray
Assistant Director of the Louisiana Agricultural Commodities Commission, Kyra Holden
Assistant Division Director, Terrel Castille
Agricultural Spec. Program Manager, Dennis Guidry
Auditor, John Smith
Auditor, Billy Benton
Auditor Director, Mark Tillman
Administrative Assistant IV, Gail Moutz

III. Approval of October 6, 2008 Minutes

A motion was made by Mr. Filmore Bordelon to approve the minutes as read and Mr. Kenny Self seconded the motion. The motion carried unanimously.

IV. New Business

A. Consideration of the Grain Dealer's License for Pilgrim's Pride Corporation

The representatives for Pilgrim's Pride Corporation, Mr. Neil Morris, Mr. Winston Mar and Mr. David Huffman were present at the meeting. The Commission asked them to step outside and to return when the financial information was presented.

A motion for Executive Session was made by Mr. Filmore Bordelon and seconded by Mr. Ryan Ellington. The motion carried unanimously.

Commissioner Mike Strain, DVM, joined the meeting at 10:40 a.m.

A motion was made by Mr. Donald Zaunbrecher and seconded by Mr. Filmore Bordelon to come out of Executive Session. The motion carried unanimously.

Mr. Neil Morris with Pilgrim's Pride Corporation expressed to the Louisiana Agricultural Commodities Commission that 100% of the producers that Pilgrim's Pride Corporation buys from in Louisiana give their full support of Pilgrim's Pride Corporation's continued operation.

Mr. Filmore Bordelon asked the representatives how many producers they purchased from. Mr. Morris stated there are approximately 100 active producers with some of the smaller producers selling through their dealers.

Mr. Robert Hanks commented to the Pilgrim's Pride Corporation representatives that it was the responsibility of the Louisiana Agricultural Commodities Commission to thoroughly discuss the consideration of approving Grain Dealers licenses to ensure that the growers are paid.

Mr. Hanks also stressed to Mr. Neil Morris, Mr. Winston Mar and Mr. David Huffman, that the pros and cons were thoroughly discussed. Mr. Ryan Ellington stated cons were the fact that Pilgrim's Pride Corporation was in bankruptcy and a risk to the Louisiana Department of Agriculture & Forestry, the Louisiana Agricultural Commodities Commission and the farmers, but the pros were the assurance that the farmers would be paid and the business operation in Natchitoches, Louisiana would be required to participate in the Indemnity Fund, which was very important to the Commission.

A roll call vote was requested by Mr. Hanks to approve the application as discussed:

Mr. Filmore Bordelon - Yes

Mr. Ryan Ellington – Yes

Mr. Robert Hanks – Yes
Mr. Keith Hensgens – Yes
Mr. Kenny Self – Yes
Mr. Donald Zaunbrecher – Yes
Commissioner Mike Strain – Yes

A motion was made by Mr. Ryan Ellington and seconded by Mr. Keith Hensgens to approve Pilgrim's Pride Corporation's grain dealer license subject to electronic monthly monitoring reports. The physical location for the Louisiana Department of Agriculture & Forestry auditors' inspections is to be located in Natchitoches, Louisiana. The motion carried unanimously.

Mr. Hanks asked Mr. Zaunbrecher if he still wanted to make a motion to have Pilgrim's Pride Corporation submit their auditing reports bi-monthly. Mr. Zaunbrecher stated yes. A motion was made by Mr. Zaunbrecher to have Pilgrim's Pride Corporation submit their auditing reports bi-monthly.

Mr. Huffman stated that it would be difficult for them to submit on a bi-monthly basis because their financial reports were produced on a monthly basis. Mr. Zaunbrecher stated that since it would be difficult for Pilgrim's Pride Corporation to send auditing reports bi-monthly, he would withdraw the motion.

Mr. Hanks expressed his appreciation to Mr. Morris, Mr. Mar and Mr. Huffman for their time and patience. Pilgrim's Pride Corporation representatives assured the Louisiana Agricultural Commodities Commission they would comply with any requirements deemed necessary.

Mrs. Ashley Dupree stated she would send a letter to Pilgrim's Pride Corporation stating that the license was approved subject to the requirements of the Commission. Mrs. Dupree stated the company will be in a more rigid monitoring program than the standard monitoring program. Mrs. Dupree stated that the Louisiana Department of Agriculture & Forestry would monitor Pilgrim's Pride Corporation very closely and advised the Commission that if Pilgrim's Pride Corporation met any criteria for revocation of their grain dealer's license, at any time, the Commission had the authority to examine Pilgrim's Pride Corporation's records whenever necessary.

Mr. Billy Benton stated that Pilgrim's Pride Corporation will be required to produce information to the Louisiana Department of Agriculture & Forestry regarding the farmers they purchase from and verification that the farmers are paid on a monthly basis.

Mr. David Huffman informed the Commission that there is a public website providing the monthly financials and any additional information requested would be provided.

Commissioner Mike Strain commented to the representatives that it was the responsibility of the Louisiana Department of Agriculture & Forestry and the Commission to ensure that the farmers will be paid in a timely fashion under the agreements of the license. Commissioner Strain stated that he hoped they could work together successfully.

Mr. Robert Hanks also requested that it be stated on record that the Louisiana Agricultural Commodities Commission's justification for approving the grain dealer's license was to ensure that the farmers were paid. Mr. Robert Hanks also stressed the risks taken by the Commission and the Louisiana Department of Agriculture & Forestry in granting approval of the grain dealer's application license due to Pilgrim's Pride Corporation's bankruptcy status.

B. Review of Current Licensees with Financial Concerns

Hollybrook Enterprises, LLC
Dunavant Enterprises, Inc.

A motion was made by Mr. Robert Hanks and seconded by Mr. Filmore Bordelon to go into Executive Session. The motion carried unanimously.

A motion was made by Mr. Zaunbrecher to go out of Executive Session and Mr. Filmore Bordelon seconded the motion. The motion carried unanimously.

C. Potential Legislation for the 2009 Regular Session

Mrs. Ashley Dupree reported that the Louisiana Department of Agriculture & Forestry is offering a bill this regular session to make changes to existing law. Mrs. Dupree stated she changed the language for the number of members required for a quorum which will now be five in place of six.

Mrs. Dupree stated one of the basis the Commission could use to deny a license is the reputation of the company, which is a concern keeping that in the statute because of its subjectivity. Mrs. Dupree further stated if the Commission uses this for grounds for revocation of a license, she feels it would be legally challenged. Mrs. Dupree stated that this has not been used for the past twenty years it has been on the books and is appropriate at this time to remove it.

Mrs. Dupree stated there is a provision in the law that requires the Commissioner to recover receiverships expenses and administrative costs when the Louisiana Department of Agriculture & Forestry takes over a company. She stated the administrative costs far exceed the amount in the receiverships and feels it is appropriate to change the language to read that the Commissioner "may" instead of "shall" recover some of the costs of receiverships.

Mrs. Dupree reported there are also some technical changes. The Grain & Feed Dealers Association will be changed to the Louisiana Ag Industries Association (LAIA). The Louisiana Ag Industries Association structurally encompasses several entities, such as Grain and Feed, Pesticides and other associations that are under the umbrella of LAIA. They requested that it be changed in the statute to reflect the Louisiana Ag Industries Association. Mrs. Dupree stated they have made a resolution to change their by-laws to make sure it is uniform.

In 2008, the Federal Research and Promotion Grain Sorghum Assessment was

suspended and will remain suspended through legislative action in the 2009 Legislative Regular Session.

D. Discussion of Louisiana Rice Drier's Association Issues

Mrs. Dupree reported that she attended the Louisiana Rice Drier's Association's annual meeting in Crowley. Mrs. Dupree stated that there was an issue that was brought up and she assured them she would bring this concern to the attention of the Commission. Mrs. Dupree stated there is a concern regarding the use of origin weight vs. destination weight of rice. She stated there are no laws to govern this.

The Commission discussed the concern of the Louisiana Rice Drier's Association. Mr. Hanks expressed his desire that one of the Commission members attend a meeting to learn more regarding the issue of origin weight vs. destination weight before the Louisiana Agricultural Commodities Commission makes any decisions.

Mr. Hanks asked Mr. Hensgens his permission for the Commission to invite the president of the Louisiana Rice Drier's Association to attend one of the Louisiana Agricultural Commodities Commission meetings. Mr. Hensgens was in agreement.

Mrs. Dupree stated some of the driers are having a hard time getting stock insurance due to their locations. She also stated they are required by law to maintain provisional insurance in order to be licensed with the Louisiana Agricultural Commodities Commission.

Mrs. Dupree stated she would do further research on this matter to see if it would be feasible to provide a separate stock insurance fund by the state and determine if it is cost effective.

E. Discussion of 2009-2010 Applications

Mrs. Dupree reported the 2009-2010 applications were sent out March 18, 2009 and due back April 30, 2009. There were 89 applications. Enclosed with the application was a cover letter explaining that if the application was not sent in by the due date, by law, they would be subject to penalties.

Mrs. Dupree stated she made some changes to make the application more user friendly and helpful to accurately assess and state more clearly who the Louisiana Department of Agriculture & Forestry is protecting through that grain dealer, warehouse or cotton merchant licenses.

Mrs. Dupree stated the Daily Risk Position Report, a section of the application, is not useful information and the majority of the applicants have not been filling it out, nor has it been tracked in the previous years.

Mrs. Dupree advised the Commission that in the statute they have the ability to require inventory and position reports. In regards to the position report, in the regulations a rule was promulgated requiring monthly submission of the daily reports be submitted but has not been enforced. Mrs. Dupree's concern

is if there is a future receivership, there will be a problem because as an enforcement body, the department has not been enforcing this.

Mr. Billy Benton explained that the Daily Risk Position Report is not necessarily related to the current net worth as far as the timing of the year it is submitted. Mr. Benton stated if there is a violation, a decision would have to be made whether to have an adjudicatory hearing based on what information was already submitted or get more current information.

Mr. Benton stated that the direction of the Commission was needed to make a decision whether to continue the Daily Risk Position monthly report.

A motion was made by Mr. Ryan Ellington and seconded by Mr. Filmore Bordelon to repeal the rule that has a provision in the Administrative Code, Section 123:(J), stating the Daily Risk Position Report is required to be submitted on a monthly basis. Also, the Daily Risk Position will still be examined by the Louisiana Department of Agriculture & Forestry's auditors. The motion carried unanimously.

V. Old Business

A. Review of Grain and Cotton Indemnity Fund (GCIF)

Ms. Kyra Holden, Assistant Director of the Louisiana Agricultural Commodities Commission, reported that the Rules and Regulations for the GCIF were promulgated and will become permanent as of April 20, 2009. The Louisiana Department of Agriculture & Forestry will start receiving claims and begin disbursements after April 20, 2009.

Ms. Holden reported that the balance of the GCIF, as of this date, is \$187,807.10. Previously at the October 6, 2008, meeting, the balance was \$11,371.00.

Mrs. Dupree stated we will coordinate with the bankruptcy attorney to see if any claimants have received payments to offset what they will receive from the GCIF. Mrs. Dupree stated that the Commission will be informed of the status.

Ms. Holden stated everyone was up to date on payments to the GCIF with the exception of three companies and that she would be sending reminder letters if they are a month behind, otherwise everything is going well.

Mr. Robert Hanks asked if it was possible for the Louisiana Agricultural Commodities Commission to have telephone conference calls in any event the Commission could not physically meet. Mrs. Dupree stated it was a violation of the public meetings law and the public had the right to attend meetings.

B. Review of Central Louisiana Grain Receivership

Mrs. Dupree reported that on October 29, 2008, the dissolution of the receivership was signed by the court. She stated the Louisiana Department of Agriculture & Forestry is no longer in receivership of Central Louisiana

Grain. The Louisiana Department of Agriculture & Forestry will still oversee the claims of the Grain and Cotton Indemnity Fund. She stated that an additional item still outstanding is the bond money. The Louisiana Department of Agriculture and Forestry will issue a check for \$50,000 for the grain dealer's license from the Self-Insurance Fund and \$25,000 for the warehouse license from the Self-Insurance Fund. Mrs. Dupree stated that the bankruptcy trustee feels that the \$75,000 is property of the estate. She sent the trustee a notice that the Department was prepared to give him \$75,000 through a judicial order. The claims were originally \$928,000 but she was unsure if any of the claimants have been reimbursed.

C. Review of H&J Cotton Receivership

Mrs. Dupree reported that the balance of the \$11,000 has been distributed and the Louisiana Department of Agriculture & Forestry is waiting on the checks to clear the bank. One remaining item is the disposal of the building, which is being addressed at the moment.

VI. Public Comment

None.

Mrs. Dupree informed the Commission that it was necessary for them to fill out the form for the Ethics Disclosure which is required of any board that has the authority to distribute more than \$10,000. She stated the Board of Ethics governs the collecting of information. The contact phone number is 225-219-5600 for questions. Ms. Dupree stated she will send this information to the Commission members not in attendance at today's meeting.

VII. Future meeting date

The date of the next meeting will be set at a later date. We may be able to meet again in late May.

VIII. Adjournment

A motion was made by Mr. Donald Zaunbrecher and seconded by Mr. Keith Hensgens to adjourn the Louisiana Agricultural Commodities Commission meeting. The motion carried unanimously.

Mr. Robert Hanks, Vice-Chairman